

overthrowing the averments of the bill as to deprive the plaintiff of the discovery he asks.

But these reasonings appear to be founded upon a much broader and more extraordinary assumption; which is, that the defendant has no other means of protecting himself against the most frivolous and unfounded calls for disclosures, that may be attended with the most injurious consequences to him. If there was the least ground for this assumption the reasoning would be entitled to the greatest respect; but it is utterly destitute of foundation. We have seen that a defendant has the most ample means of protecting himself from all unwarrantable calls for discovery, by either a demurrer, or a plea; which he may mature, and advisedly rest upon; and which even after argument he may have revised and amended to reach and exactly to fit the merits of his case. Indeed, it is said, that negative pleas were contrived expressly for the purpose of preventing this mischief. For, as it has been justly observed, any person might, by alleging a title, however false, sustain a bill in equity against any person for any thing, so far as to compel an answer; and thus the title to every estate, the transactions of every commercial house; and even the private transactions of every family might be exposed; and this might be done in the name of a pauper, at the instance of others, and for the worst purposes. *Beam's Pleas Equ.* 130.

This is a frightful view of the extent to which an unlimited right to call for a discovery by means of a bill in equity might be carried. But what is the remedy? A plea. This is not all. The reasons are here strongly presented to shew the great value and importance of pleas; not only as the commensurate and appropriate remedy or preventative, but as the sole and exclusive one. For it is not said, that if the party fails to betake himself to this shelter, he may find protection by anything he can allege by way of answer; on the contrary, if he waives or is driven from his plea, we are told, that he will be then met by the rule which commands him to answer as fully as the bill requires. *Prac. Reg.* 275.

*There appears to be some stress laid upon the peculiar claims which, it is said, a purchaser without notice has upon the Court for its protection. And, from a careful consideration of the only case in which any reasons are to be found for the decisions which sanction this, as one of the exceptions to the rule, the Court seems, in its anxiety to take due care of that favored character, to have entirely skipped over the previous question; whether the defendant was, in truth, such a purchaser or not; and, taking it for granted, that he really was such a person, to have gone on to declaim upon the very eminent standing of such a character in a Court of equity. The true and only question before the Court was, whether a defendant, who had, in his answer, averred, that he was a purchaser without notice, could thus protect himself